
Assembly of First Nations

55 Metcalfe Street, Suite 1600
Ottawa, Ontario K1P 6L5
Telephone: 613-241-6789 Fax: 613-241-5808
www.afn.ca



Assemblée des Premières Nations

55, rue Metcalfe, Suite 1600
Ottawa (Ontario) K1P 6L5
Téléphone: 613-241-6789 Télécopieur: 613-241-5808
www.afn.ca

ANNUAL GENERAL ASSEMBLY
July 23, 24 & 25, 2019, FREDERICTON, NB

Resolution no. 25/2019

TITLE: Support for a First Nations Led Engagement Process on Nation Building

SUBJECT: Inherent Rights, Title and Jurisdiction

MOVED BY: Kupki7 Judy Wilson, Neskonlith Indian Band, BC

SECONDED BY: Chief Lance Haymond, Kebaowek First Nation, QC

DECISION: Carried by Consensus

WHEREAS:

- A. The Honourable Carolyn Bennett, Minister of Indigenous and Northern Affairs, announced Canada's unqualified support for, and intent to fully implement, the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) at the United Nations Permanent Forum on Indigenous Issues on May 10, 2016.
- B. The Right Honourable Prime Minister Justin Trudeau promised to fully respond to each of the Calls to Action of the Truth and Reconciliation Commission.
- C. Call to Action 43 calls upon federal, provincial and municipal governments to fully adopt and implement the UN Declaration as the framework for reconciliation.
- D. The UN Declaration states:
 - i. Article 26 (1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - ii. Article 26 (3): States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect of the customs, traditions and land tenure systems of the indigenous peoples concerned.

Certified copy of a resolution adopted on the 25th day of July 2019 in Fredericton, New Brunswick

PERRY BELLEGARDE, NATIONAL CHIEF

25 – 2019
Page 1 of 5

- iii. Article 27: States shall establish and implement, in conjunction with Indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of Indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.
 - iv. Article 28: (1) Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
 - v. Article 28: (2) Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.
 - vi. Article 29: (2) States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
 - vii. Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
- E. Article XXIV of the American Declaration on the Rights of Indigenous Peoples states, "Indigenous peoples have the right to the recognition, observance, and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors, in accordance with their true spirit and intent in good faith and to have States honor and respect same. States shall give due consideration to the understanding of the indigenous peoples as regards to treaties, agreements and other constructive arrangements."
- F. Canada's Comprehensive Land Claims Policy (CLCP) and the Inherent Right to Self-Government Policy (IRSG) and associated processes undermine the true Nation-to-Nation relationship between First Nations and the Crown and have been widely rejected by First Nations for their focus on the infringement and extinguishment of Indigenous Rights, Title, and Jurisdiction. Both policies are inconsistent with Canadian jurisprudence (*Haida*, *Delgamuukw*, *Tsilhqot'in Nation*), Section 35 of Canada's Constitution, and the UN Declaration.

Certified copy of a resolution adopted on the 25th day of July 2019 in Fredericton, New Brunswick


PERRY BELLEGARDE, NATIONAL CHIEF

**ANNUAL GENERAL ASSEMBLY
July 23, 24 & 25, 2019, FREDERICTON, NB**

Resolution no. 25/2019

- G. Unilaterally developed policy and legislation that sets parameters on the Crown's relationship with First Nations is in direct contravention of the Nation to Nation relationship and the Crown's obligations under International law.
- H. AFN Resolution 47/2015, *Develop a Federal Comprehensive Land Claims Policy Based on the Full Recognition of Aboriginal Title*, rejects the CLCP and calls on Canada, "on a Nation-to-Nation basis, in direct consultation with Aboriginal Title First Nations, to undertake a process to replace the federal Comprehensive Claims Policy (CCP) with a policy that recognizes and respects Aboriginal Title and Rights in accordance with Canada's Constitutional obligations, the Tsilhqot'in Nation decision, and consistent with the UN Declaration."
- I. AFN Resolution 37/2016, *Establishing a Crown-First Nations Process on Land, Peoples and Governance*, calls for the creation of a First Nations process that seeks "mutual understanding, consensus and solutions to matters pertinent to First Nations including decolonization, empowerment and "going beyond the Indian Act," and direct the Assembly of First Nations to coordinate this process with First Nation regions and Canada."
- J. AFN Resolution 08/2018, *Implementing Canada's Recognition and Implementation of Indigenous Rights Framework and clarifying the role of the AFN*, calls on Canada to "completely repudiate and abandon the inherent rights policy and the any related operating practices."
- K. In July 2018, AFN Chiefs-in-Assembly passed Resolution 39/2018, *First Nations Determination of the Path of Decolonization*, calling for the Framework process to be halted and a First Nations-led process created.
- L. On September 11-12, 2018, the AFN hosted a National Policy Forum attended by over 500 delegates to discuss Canada's Framework process. The Final Report identified 7 emergent First Nations principles that could guide the path forward:
- i. Affirm the pre-existing sovereignty and inherent Title of First Nations. Inherent rights and Title already exist and have been affirmed. Our rights as peoples and nations cannot be extinguished, and do not owe their existence to any other level of government.
 - ii. First Nations laws, language, culture, governance, jurisdiction must inform mutually acceptable solutions.
 - iii. The honour of the Crown means that the Crown's words meet their actions and the Crown always keeps its promises, including the full implementation of treaties and agreements.
 - iv. Value the equality of peoples as in the *Guswentah* (Two Row Wampum Treaty).

Certified copy of a resolution adopted on the 25th day of July 2019 in Fredericton, New Brunswick


PERRY BELLEGARDE, NATIONAL CHIEF

**ANNUAL GENERAL ASSEMBLY
July 23, 24 & 25, 2019, FREDERICTON, NB**

Resolution no. 25/2019

- v. Fair and inclusive collaboration means making decisions together not in isolation.
 - vi. Clear, transparent communication must restore, not erode trust.
 - vii. Organize the federal government and its practices so that the *UN Declaration* guides reconciliation. Reconciliation does not mean compromise, it means moving forward in a respectful way.
- M.** In December, 2018, AFN Chiefs-in-Assembly passed AFN Resolution 67/2018, *Rejection of the recognition and Implementation of Indigenous Rights Framework and Associated Processes*, which called on the AFN to support First Nations in "developing their own Nation-building processes, including law-making, institution-building, and research of traditional governance systems in order for First Nations to begin developing standards of governance and law-making and to assert their inherent rights outside the purview of Canadian legislative control."
- N.** On December 4, 2018, Minister Bennett and Prime Minister Justin Trudeau publicly agreed to halt the Framework process while also committing to replace the existing CLCP and IRSG policies in partnership with First Nations.
- O.** On May 1-2, 2019 the AFN hosted a National 4 Policies and Nation Building Forum in Edmonton, Alberta. At this Forum Minister Bennett announced that her government would support a First Nations led engagement process to develop new policy.
- P.** On May 21, 2019, a *Draft Directive for Federal Officials on the Recognition and Implementation of Indigenous Rights*, was leaked. It is an internal draft government document that did not include any apparent involvement or consent of any First Nations or the AFN. Federal officials confirmed via email on June 11, 2019 that "at this point, nothing further is happening with it."
- Q.** The May 21, 2019, Draft Federal Directive has serious implications for Indigenous Title, Rights and historic Treaty Rights and in response, the National Chief wrote Minister Bennett on June 10, 2019, informing her AFN cannot support the unilateral Draft Directive.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Re-affirm our rejection of Canada's Comprehensive Land Claims Policy (CLCP) and the Inherent Right to Self-Government Policy (IRSG) and all associated policies and processes.

Certified copy of a resolution adopted on the 25th day of July 2019 in Fredericton, New Brunswick


PERRY BELLEGARDE, NATIONAL CHIEF

25 – 2019
Page 4 of 5

ANNUAL GENERAL ASSEMBLY
July 23, 24 & 25, 2019, FREDERICTON, NB

Resolution no. 25/2019

2. Re-affirm Assembly of First Nations (AFN) Resolution 37/2016, *Establishing a Crown-First Nations process on Land, Peoples and Governance*, AFN Resolution 08/2018, *Implementing Canada's Recognition and Implementation of Indigenous Rights Framework and clarifying the role of the AFN*, AFN Resolution 39/2018, *First Nations Determination of the Path to Decolonization*, and AFN Resolution 67/2018, *Rejection of the Recognition and Implementation of Indigenous Rights Framework and Associated Processes*, which collectively:
 - a. Reject federally imposed processes and approaches to the recognition of Indigenous Rights, Title and Jurisdiction.
 - b. Recognize, elevate, and support Indigenous self-determination and decision-making processes.
3. Reiterate our call for a First Nations-led process to develop new federal policies and/or legislation to address the recognition and implementation of our inherent Rights, Title and Jurisdiction.
4. Reiterate our expectation that any policy or framework which may affect the Title, or Rights of any First Nation, irrespective of whether that First Nation is currently engaged in negotiations with the Crown, requires the free, prior and informed consent of all First Nations potentially impacted by such a policy or framework.
5. Direct the AFN, through coordinated action, to implement the common elements of these inter-related resolutions (08/2018, *Implementing Canada's Recognition and Implementation of Indigenous Rights Framework and clarifying the role of the AFN*, 39/2018, *First Nations Determination of the Path to Decolonization* and 67/2018, *Rejection of the Recognition and Implementation of Indigenous Rights Framework and Associated Processes*) through a national engagement process.
6. Direct the AFN to advocate for adequate federal funding to support meaningful First Nations engagement at the local, regional, and national levels on nation building.
7. Direct the AFN to provide an update on progress at the December 2019 Special Chiefs Assembly.

Certified copy of a resolution adopted on the 25th day of July 2019 in Fredericton, New Brunswick



PERRY BELLEGARDE, NATIONAL CHIEF